

NOT TO BE PUBLISHED

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(San Joaquin)

----

In re A.C. et al., Persons Coming Under the Juvenile  
Court Law.

C093889

SAN JOAQUIN COUNTY HUMAN SERVICES  
AGENCY,

(Super. Ct. Nos.  
STKJVDP20170000066,  
STKJVDP20170000297)

Plaintiff and Respondent,

v.

F.C. et al.,

Defendants and Appellants.

Appellants F. C. and I. C., mother and father of the minors, appeal from the juvenile court's orders terminating parental rights and freeing the minors for adoption. (Welf. & Inst. Code, §§ 366.26, 395.)<sup>1</sup> They contend the juvenile court erred in failing to find the beneficial parental relationship exception to adoption applies in this case. They

---

<sup>1</sup> Undesignated statutory references are to the Welfare and Institutions Code.

also contend the juvenile court was not provided with the minors' wishes regarding the termination of parental rights prior to making its determination. We affirm.

## FACTUAL AND PROCEDURAL BACKGROUND

### I

#### *Precipitating Facts*

Minor Ab. C. (who was eight months old) came to the attention of the San Joaquin County Human Services Agency (Agency) on February 1, 2017, following a report from the hospital that the minor was brought in by mother the night before. A CAT scan showed she had a right side brain bleed and a second healing brain bleed (bilateral) from one to two weeks prior, which was indicative of abuse. Mother, who was the primary caregiver, had reported an unwitnessed fall from the minor's walker, stating she presumed the minor had slipped out of the seat, slid down to the carpet and hit her head, but she did not have any explanation for the second injury. An MRI showed multiple bilateral subdural hematomas of varying age, which were determined have occurred on three different dates and to be shear injuries, likely caused by shaking. The minor also had recent retinal hemorrhaging.

Appellants denied any substance abuse in the home. Mother (who was currently pregnant) informed the social worker that she had a history of bipolar disorder but was not taking medication due to her pregnancy. Father worked two jobs five days a week and on those days spent less than five hours a day at home. Although appellants were Ab. C.'s primary caretakers and the minor was generally only in their care, neither parent took responsibility for the injuries Ab. C. suffered and neither parent believed the other parent was responsible for the injuries.

### II

#### *Jurisdiction And Disposition*

The Agency filed a dependency petition on behalf of minor Ab. C. alleging the minor came within section 300, subdivisions (a) (serious physical harm), (b) (failure to

protect), and (e) (severe physical abuse). The juvenile court ordered the minor detained. In June 2017, shortly after mother gave birth to minor Am .C., the Agency filed a dependency petition on her behalf alleging Am. C. came within the provision of section 300, subdivisions (b) (failure to protect) and (j) (abuse of sibling). The court ordered Am. C. detained in protective custody and granted parents supervised visitation. Subsequently, the court ordered both Am. C. and Ab. C. placed with the maternal great-aunt and uncle.

After a lengthy contested hearing wherein the court heard from multiple medical professionals, the juvenile court found the allegations of the dependency petitions true.<sup>2</sup> In making its disposition orders, the juvenile court stated the nature and extent of Ab. C.'s injuries were unmistakable and remarkable—there were multiple injuries over an extended period of time, occurring on at least three separate occasions, and all of which occurred after the minor was released from the intensive care unit and before the minor was admitted to the hospital on January 31, 2017. There was no evidence the injuries were birth related and the parents had offered no plausible explanation for them. All of the injuries occurred while the minor was under the care of the parents and there was no evidence to suggest that any other individual had access to the minor on such a basis so as to have inflicted the minor's injuries.

The juvenile court initially denied reunification services under section 361.5, subdivision (b)(5), (6) and (7), concluding both parents were at fault because one (or both) had inflicted the nonaccidental injuries and the other, by default, knew or should know at this point (by process of elimination of him/herself) which parent committed the abuse. It therefore held both parents responsible for the minor's injuries. There was

---

<sup>2</sup> The juvenile court initially took jurisdiction only as to minor Ab. C., continuing the jurisdiction hearing as to Am. C. The juvenile court later took jurisdiction over Am. C., as well.

insufficient evidence, however, that a nonperpetrating parent should have known the minor was being abused. Accordingly, upon extraordinary writ review, we reluctantly agreed that, because the juvenile court could not make a determination as to which parent perpetrated the injuries, neither parent could be bypassed for services and we issued an alternative writ directing the juvenile court to order reunification services.

### III

#### *Section 366.26 Hearing*

Appellants' reunification plan included personal counseling and anger management therapy. The treatment goals were: (1) accept responsibility for Ab. C.'s nonaccidental injuries; (2) explain how the minor was actually injured in the three incidents; (3) identify the stressors that caused the abuse; and (4) identify how to prevent future abuse to both minors. Appellants were also provided additional visitation, increased from the one 2-hour supervised visit a week they had been receiving to two visits a week.

Appellants participated in the services but "remained in denial" about the nonaccidental nature of Ab. C.'s injuries. The juvenile court terminated reunification services on September 10, 2020. Visitation had already been reduced due to COVID-19 and was ordered to remain at once a week. Appellants' request for a bonding study was denied.

The Agency's section 366.26 report stated the minors had been in the care of the maternal great-aunt and uncle for four years and the caregivers wanted to provide permanency through adoption. The minors were flourishing and referred to their caregivers as "mommy" and "daddy." Both minors sought out the caregivers for comfort, affection, and reassurance. Ab. C. said her great-aunt is her "best friend" and the minor had no recollection of ever having lived with appellants. Am. C. had lived with the caregivers her entire life. They had both celebrated all their birthdays, holidays,

and milestones with the caregivers and created their childhood memories with them. The minors were “strongly bonded” to each other and to the caregivers.

Weekly supervised visits had gone well throughout the underlying case. Appellants had visited over 300 times. The minors and appellants greeted each other with hugs and the minors enjoyed all the love and attention. The minors were observed at visits to be energetic, playful, and happy, and they enjoyed engaging in play with appellants and playing with the toys appellants brought. Appellants matched the minors’ energy and actively engaged in play. During visits, the minors referred to appellants as “mommy” and “daddy.” The minors demonstrated various emotional dispositions at the end of visits. For example, at the conclusion of one visit, Ab. C. cried because she did not want to leave her sticker book. Mother was able to prompt the minor to prepare to leave and provided the minor with a snack, which resulted in a positive change to the minor’s demeanor. At the conclusion of another visit, both minors easily engaged in clean up and departure. On several visits, they departed easily and raced to the car. Overall, the minors appeared content and displayed no severe changes in their affect when it was time to leave visits. The social worker believed the minors deserved the stability of a permanent home and did not believe termination of parental rights would be detrimental to the minors. The Agency determined the minors were highly adoptable, both by their current caregivers and in general. The Agency recommended termination of parental rights and freeing the minors for adoption.

By the time of the March 15, 2021 section 366.26 hearing, appellants had attended almost 400 supervised visits. The juvenile court heard testimony from the recent visit supervisor, both parents, a transportation worker, and the adoptions worker. The visit supervisor testified the minors always arrived smiling and excited, and sometimes ran to appellants and hugged them when they saw them. Appellants would play with the minors and bring crafts, puzzles, and snacks. Appellants were affectionate, caring, and appropriate. The minors would sometimes hug appellants and sometimes say, “I love

you.” Interactions were positive. The minors usually called parents “mommy” and “daddy” but sometimes called them by their given names. There were occasions when Ab. C. looked sad at the end of the visits but mother would successfully redirect her by offering a snack. The minors did not cry or have any tantrums at the end of visits. Appellants would usually wave goodbye when the minors were buckled up in the van and the minors would sometimes wave back. Other times, the minors were preoccupied with their snacks and would not wave goodbye. She had not observed anything negative at any of the visits.

Appellant’s testimony echoed that of the visit supervisor. They testified that minors would run to them and hug them and refer to them as “mommy” and “daddy.” Father testified the minors also sometimes call him by his given name, although they do not know how to pronounce it. They also call him “daddy” and “aunt” and “uncle” “because they know the aunt is mom and they know uncle is dad.” Appellants interpreted some of the minors’ behavior at the end of visits, such as Ab. C. putting her head down, as them being sad the visit was ending. Those instances, however, did not take place during recent visits. Appellants successfully used snacks and water to transition the minors at the end of visits and back to school. Appellants also testified about the nature of the visits that took place at the caretaker’s home early on in the case—about participating in family dinners and bedtime, and about the minors’ behavior when they would leave. They indicated the minors would be upset when they left from those visits. Visits had been moved from the caretakers’ home 12 to 18 months before the hearing.

Father described his bond with the minors as “strong” and as a “natural, loving relationship.” Mother described her bond as “consistent” and believed that the minors will always be bonded to her, will always seek her out, and will always find her. Both parents believed terminating parental rights would be detrimental to the minors because the minors are biracial and the caretakers cannot teach them about racism (or how to maintain their hair) the way they, as a biracial couple, can.

The county transportation worker who picked up the minors and drove them to and from most of the visits in the six months prior to the hearing testified the minors were excited and happy on the way to visits and were happy to see appellants at visits. They would often run up to appellants and hug them. The minors would wave goodbye to appellants as they drove away and were happy after visits and during the 20-minute return drive. Only once or twice, when the worker had first begun providing transportation, had the minors been unhappy or hesitant at the end of a visit, requiring the worker to redirect the minors by providing some stickers. But they had also been hesitant to go with him *to* the visit. Once he was no longer a stranger to them, they no longer had any hesitancy to leave with him at the end of visits.

The adoptions worker testified she had also transported the minors to and from visits and observed visits on a few occasions. She observed the minors to appear happy going to the visits and displaying differing demeanors upon departure—generally having no difficulty leaving unless they were involved in an activity. Appellants actively participated in the visits and brought activities for the minors. The minors appeared to enjoy appellants’ affection, although the worker had not heard the minors tell appellants they love them.

The Agency and minors’ counsel argued termination of parental rights would not be detrimental to the minors. The Agency argued that in order to find the beneficial parental relationship exception applied, it had to find the minors’ bond to appellants is so significant that it outweighs the benefits of adoption. It stated that the incidental benefit by virtue of having a biological relationship was insufficient and, for the exception to apply, the relationship had to be parental in nature, not just that of a friendly visitor, and the court must consider such things as the nature and quality of the visits and the duration the minors had lived with appellants. The Agency then argued the minors’ relationship with appellants was that of a friendly visitor or extended relative and that, while the visits were pleasant, the minors’ bond to appellants was not so significant that maintaining it

outweighed the benefits of adoption. Appellants argued the minors enjoyed the visits, as well as all the love and affection given to them by appellants. They argued the minors looked at them as their parents and it would be detrimental to the minors to suddenly “demolish” that role. The Agency responded that the minors viewed their caretakers as their parents who fulfill the parental role, and did not view appellants as such.

In finding the beneficial parental relationship exception to adoption does not apply in this case, the juvenile court stated: “When we get to this point, the burden shifts from the agency to the parents. The parents to show their existing bond would be—severing that bond would be detrimental. That’s the part that has to be addressed. [¶] The testimony I heard today was primarily when the visits ended, the children were happy. There may have been a time or two when some interest or project may have been called terminated too soon for one of the children, and therefore, not happy about stopping doing whatever they were doing. [¶] So the court is put in a position where it needs to proceed. The court has considered the [section 366].26 report and considered the testimony that’s been presented. Court previously made a finding denying or terminating reunification services to the parents. [¶] The court finds by clear and convincing evidence it is likely the children . . . will be adopted. It is in their best interest to have parental rights terminated and termination of parental rights is not detrimental to the minors. [¶] None of the exceptions pursuant to . . . section 366.26(c)(1) exists, therefore, the parental rights of the mother . . . and the father . . . are hereby terminated.”

## DISCUSSION

### I

#### *Beneficial Parental Relationship Exception*

Parents contend the juvenile court erred in failing to find the beneficial parental relationship exception to adoption applied based on their relationship with the minors.

At the selection and implementation hearing held pursuant to section 366.26, a juvenile court must choose one of the several “ ‘possible alternative permanent plans for

a minor child. . . . The permanent plan preferred by the Legislature is adoption. [Citation.]’ [Citation.] If the court finds the child is adoptable, it must terminate parental rights absent circumstances under which it would be detrimental to the child. [Citation.]” (*In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1368, italics omitted.) There are limited circumstances permitting the court to find a “compelling reason for determining that termination [of parental rights] would be detrimental to the child . . . .” (§ 366.26, subd. (c)(1)(B).) Such circumstances include when the parents have maintained regular visitation and contact with the child, the child would benefit from continuing the relationship, and termination of parental rights would be detrimental to the child. (§ 366.26, subd. (c)(1)(B)(i) [beneficial parental relationship exception]; *In re Caden C.* (2021) 11 Cal.5th 614, 639-640.)

To establish the beneficial parent-child relationship exception the parent must show by a preponderance of the evidence three elements: “(1) regular visitation and contact, and (2) a relationship, the continuation of which would benefit the child such that (3) the termination of parental rights would be detrimental to the child.” (*In re Caden C.*, *supra*, 11 Cal.5th at p. 631; *id.* at p. 636.) In assessing whether termination would be detrimental, the juvenile court “must decide whether the harm from severing the child’s relationship with the parent outweighs the benefit to the child of placement in a new adoptive home.” (*Id.* at p. 632; *id.* at pp. 631-632.) When the parent meets this burden, the exception applies such that it would not be in the child’s best interest to terminate parental rights and the court selects a permanent plan other than adoption. (*Id.* at pp. 636-637.)

But the beneficial parental relationship exception to adoption is an *exception* to the general rule that the court must choose adoption where possible, and it “ ‘must be considered in view of the legislative preference for adoption when reunification efforts have failed.’ ” (*In re Celine R.* (2003) 31 Cal.4th 45, 53.) It “must be examined on a case-by-case basis, taking into account the many variables which affect a parent/child

bond. The age of the child, the portion of the child's life spent in the parent's custody, the 'positive' or 'negative' effect of interaction between parent and child, and the child's particular needs are some of the variables which logically affect a parent/child bond.” (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 576.) The parent must show there is a significant, positive emotional attachment between the parent and child. (*In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1418-1419.) The parent must also prove that the parental relationship “ ‘promotes the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents.’ ” (*In re S.B.* (2008) 164 Cal.App.4th 289, 297, quoting *Autumn H.*, at p. 575.) “In other words, the court balances the strength and quality of the natural parent[-]child relationship in a tenuous placement against the security and the sense of belonging a new family would confer. If severing the natural parent[-]child relationship would deprive the child of a substantial, positive emotional attachment such that the child would be greatly harmed, the preference for adoption is overcome and the natural parent's rights are not terminated.” (*Autumn H.*, at p. 575.) On the other hand, when the benefits of a stable, adoptive, permanent home outweigh the harm the child would experience from the loss of a continued parent-child relationship, the court should order adoption. (*In re Caden C.*, *supra*, 11 Cal.5th at pp. 633-634; *Autumn H.*, at p. 575.)

The party claiming the exception has the burden of establishing the existence of any circumstances that constitute an exception to termination of parental rights. (*In re C.F.* (2011) 193 Cal.App.4th 549, 553.) The factual predicate of the exception must be supported by substantial evidence, but the juvenile court exercises its discretion in weighing that evidence and determining detriment. (*In re Caden C.*, *supra*, 11 Cal.5th at pp. 639-640; *In re K.P.* (2012) 203 Cal.App.4th 614, 622.)

Appellants first contend the juvenile court misapplied the law when considering the applicability of the beneficial parental relationship exceptions to adoption. We reject this contention as it is unsupported by the record.

While appellants accurately note that the juvenile court's decision in this case predated the California Supreme Court's opinion in *In re Caden C.*, there is nothing in the record to support their assertion that the juvenile court's decision here ran afoul of the principles set forth in *In re Caden C.* Appellants' position at the hearing was that the minors' viewed them as their parents, that there was "a parental bond" and because they hold a "specific parental role" in the eyes of the minors, it would be detrimental to "all of a sudden demolish [that] role." The Agency argued the minors' relationship to appellants was nothing more than that of friendly visitors or much like extended relatives and the minors did not view appellants as their parents, but instead viewed only the caretakers as fulfilling that role. We do not agree that this is sufficient indication that the juvenile court may have relied, or did rely, on improper factors in making its decision.

*In re Caden C.* limited the consideration of the parents' progress in services or in addressing the issues that led to the dependency when considering the applicability of the exception. (*In re Caden C.*, *supra*, 11 Cal.5th at pp. 637-639.) It did not prohibit the court's consideration of the nature and strength of the minors' relationships with appellants, or how important those relationships are to the minors' stability and well-being. To the contrary, *In re Caden C.* expressly noted that the court may consider "the specific features of the child's relationship with the parent and the harm that would come from losing those specific features" as well as "how a prospective adoptive placement may offset and even counterbalance those harms." (*Id.* at p. 640.) "[C]ourts often consider how children feel about, interact with, look to, or talk about their parents. [Citations.] Doing so properly focuses the inquiry on the child." (*Id.* at p. 632.) The Agency's argument that appellants were not more than friendly visitors was relevant to determining whether the minors have substantial, positive emotional attachments to appellants, as their relationship to appellants must be more significant than that of a mere friend or playmate. (*In re J.D.* (2021) 70 Cal.App.5th 833, 864-865.)

The juvenile court here did not, in contradiction to the principles in *In re Caden C.*, compare appellants’ “attributes as *custodial caregiver* relative to those of any potential adoptive parent(s)” or consider whether appellants can provide a home for the minors—nor was it encouraged by the Agency’s argument to do so. (*In re Caden C.*, *supra*, 11 Cal.5th at p. 634, italics added.) It found that severance of the bond with appellants and termination of parental rights would not be detrimental to the minors. In making this finding, the juvenile court indicated it considered the evidence and expressly noted the minors were primarily happy when visits concluded. There is no indication the juvenile court considered any improper factors in reaching its decision. (Cf. *In re D.P.* (2022) 76 Cal.App.5th 153.)<sup>3</sup> We will not presume it did. (See *In re A.L.* (2022) 73 Cal.App.5th 1131, 1161, review denied [we indulge in every presumption to uphold a

---

<sup>3</sup> The basis for reversal in *In re D.P.* was not that the juvenile court did not state its findings in concluding the exception did not apply. The basis for reversal in *In re D.P.* was that the juvenile court, in declining to apply the beneficial parental relationship exception to adoption, stated the parents had not presented enough evidence for it to apply the exception. (*In re D.P.*, *supra*, 76 Cal.App.5th at pp. 161, 167.) Further, the Agency had argued the evidence was insufficient based on considerations subsequently disapproved in *In re Caden C.* (*Id.* at pp. 162, 164, 168.) The appellate court reversed because it found the evidence presented by the parents *was* sufficient to require the court to weigh the evidence and concluded the juvenile court *had* considered improper factors. (*Id.* at pp. 167, 169, fn. 5.) None of the reasons for reversal in *In re D.P.* are present here. The Agency did *not* urge the court to consider appellants’ attributes as custodial caregivers or to consider that the minors were placed with a relative who might continue to permit contact between the minors and appellants. The juvenile court did *not* rely on the minors’ bond to the caregivers without assessment of their relative bond with appellants—in fact, in its only comment, it affirmatively demonstrated it *was* assessing the minors’ bond with appellants. And, finally, the juvenile court here did *not* conclude appellants had not presented sufficient evidence for it to show the applicability of the exception—instead, it affirmatively considered the evidence and exercised its discretion in declining to apply the exception. (*Id.* at pp. 167-169.)

judgment; it is appellants' burden to affirmatively demonstrate error—it will not be presumed].)

Appellants also contend the juvenile court's "cursory statement" "hardly comports" with the requirement it conduct a case-specific inquiry and consider a "slew" of factors in reaching its decision. They complain the court failed to mention the relationship between appellants and the minors and, on that basis, presume the court did not consider the relationship. The juvenile court, however, expressly stated it considered the testimony and social worker's report in reaching its decision. There is no requirement the juvenile court make or express any "specific findings relative to [the court's] conclusions regarding any or all three elements of the [parental-benefit] exception" prior to finding the beneficial parental relationship exception does *not* apply. (See *In re A.L.*, *supra*, 73 Cal.App.5th at p. 1156.) While it may, in some cases, be helpful to appellate review for the court to state its reasons, there is no requirement it do so. (*Id.* at p. 1156.)

Appellants also contend the juvenile court erred because they met their burden to establish the beneficial parental relationship exception to adoption applies in this case. We find no error.

It is undisputed here that appellants maintained regular visitation and contact with the minors. It was also not disputed that visits went well and the minors had a positive relationship with appellants, although the nature and degree of their attachment to appellants was disputed. But while appellants devote a substantial portion of their argument discussing case law they believe shows the juvenile court erred in not finding their relationship to the minors to meet the second prong set forth in *In re Caden C.*—a relationship, the continuation of which would benefit the child—the juvenile court did not indicate in its ruling that it did *not* find the minors had a positive relationship with appellants. Instead, the juvenile court found it would not be detrimental to the minors to terminate that relationship.

The weighing of the harm the minors will incur in losing a positive emotional attachment to their parents, balanced against the countervailing benefit of a new, adoptive home, is a *discretionary* one, subject to review for abuse of discretion. (*In re Caden C.*, *supra*, 11 Cal.5th at p. 640.) We do not substitute our judgment for that of the juvenile court as to what is in the child’s best interests. (*Id.* at p. 641.)

At the time of the hearing, the Ab. C. and Am. C. were not yet five and four years old, respectively. Ab. C. had spent all but the first eight months of her life in foster care and Am. C. had never lived with her parents, having spent her entire young life in foster care. While the minors appeared to enjoy visits with their parents, they were generally unaffected at the end of visits unless they were in the middle of doing something at the time—at least in the year or more prior to the section 366.26 hearing.<sup>4</sup> In fact, they would sometimes race to the car. There was no evidence appellants’ absence between visits negatively affected the minors, that the minors asked to visit more often, or that the minors complained of missing appellants in between visits. Appellants emphasize that the minors knew they were their parents and, at least during some visits, referred to them as “mommy” and “daddy” (although they also referred to their caregivers as “mommy” and “daddy”). Even assuming the minors calling appellants “mommy” and “daddy” is, in fact, a reference to their understanding of their parental roles, rather than just names or titles they have learned, simply knowing certain individuals are their parents does not equate with detriment or great harm if that relationship is terminated.

Appellants showed they visited regularly, and visits went well. But a parent must show more than frequent and loving contact, emotional bond, or pleasant visits. (*In re*

---

<sup>4</sup> There is a visitation report dated October 16, 2020, that states Ab. C. had several visits around that time wherein she was having a hard time transitioning at the end of the visits. At the conclusion of the December 11, 2020 visit, Ab. C. opted not to hug appellants goodbye. Most visitation reports reflect, however, the minors making a smooth transition at the end of visits.

*Derek W.* (1999) 73 Cal.App.4th 823, 827.) While appellants established the minors enjoyed visits and did have some bond, they did not establish this to be “an extraordinary case” that preservation of parental rights must prevail over the Legislature’s preference for adoptive placement. (*In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1350.) The juvenile court was required to weigh the benefit to the minors of maintaining a relationship with appellants against the benefit to these young minors of a permanent and stable home. We find no abuse of discretion here.

## II

### *Minors’ Wishes And Bonding Study*

Mother argues the Agency failed to ascertain and provide to the court the minors’ wishes regarding the termination of parental rights, “which coupled with the court’s prior denial of a bonding study, prejudicially deprive[d] the court” of required information relating to the beneficial parental relationship exception to adoption. Father joins in the argument. Section 366.26, subdivision (h) requires the court to consider the child’s wishes regarding the termination of parental rights to the extent the child’s wishes are ascertainable. (§ 366.26, subd. (h); *In re Juan H.* (1992) 11 Cal.App.4th 169, 173.) At the time of hearing, the minors were just shy of four and five years old. The most recent social worker’s report prior to the section 366.26 report stated the minors “are too young to make a statement regarding their current circumstances.” Appellants did not challenge this statement in the report. In the absence of an objection and/or evidence demonstrating otherwise, the juvenile court properly relied upon the statement that the minors could not express their wishes about whether they wished to be adopted. (*In re Juan H.*, at p. 173.) To the extent that the juvenile court could determine their wishes from their behavior, that evidence was before the court and considered by it. (*Ibid.*)

The bulk of mother’s lengthy argument, however, is directed to her challenge to the juvenile court’s denial of the request for a bonding study. She argues, at length, that the denial of the request was error. This challenge is not properly before us in this

appeal. The juvenile court denied appellants’ request for bonding study twice—first at the September 10, 2020 hearing wherein the court terminated reunification services and set the section 366.26 hearing, and again on November 4, 2020. Appellants did not file an extraordinary writ petition challenging the denial order (as required), nor did they file an appeal from November 4, 2020 denial order. (§§ 366.26, subd. (l); 395.) Appellants’ notices of appeal herein were filed on April 6, 2021, and are not timely as to the November 4, 2020 order. (Cal. Rules of Court, rule 8.406(a)(1) [notice of appeal must be filed “within 60 days after the rendition of the judgment or the making of the order”]; see *In re Markaus V.* (1989) 211 Cal.App.3d 1331, 1335-1336.) Thus, we lack jurisdiction to consider the propriety of the court’s order denying the request for a bonding study. (*In re Megan B.* (1991) 235 Cal.App.3d 942, 950 [“appellate jurisdiction is dependent upon the filing of a timely notice of appeal”].)

#### DISPOSITION

The orders of the juvenile court (terminating parental rights) are affirmed.

/s/  
Robie, Acting P. J.

We concur:

/s/  
Hoch, J.

/s/  
Krause, J.